

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RAIJUAN JAMIER HINSON,

Defendant-Appellant.

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UNPUBLISHED  
November 1, 2005

No. 255136  
Genesee Circuit Court  
LC Nos. 03-011318-FH &  
03-011666-FH

Before: Gage, P.J., and Hoekstra, and Murray, JJ.

MEMORANDUM.

Defendant pleaded guilty to one count of possession of less than twenty-five grams of cocaine, MCL 333.7403(2)(a)(v), and one count of possession with intent to deliver less than five kilograms of marijuana, MCL 333.7401(2)(d)(iii). The trial court sentenced defendant to serve concurrent prison terms of imprisonment of two to four years for each conviction. Both minimums constituted upward departures from the respective recommended ranges under the sentencing guidelines. Defendant appeals by delayed leave granted, challenging only his sentences. We dismiss this appeal as moot. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court departed upward from the guidelines in part because defendant committed the instant felonies while on parole. Defendant's statuses as a parolee and multiple felon were taken into account in the scoring of the guidelines. See MCL 769.34(3)(b). The trial court also justified its departure on the ground that defendant was a danger to society who needed additional incarceration to reform. A sentencing court may depart from the guidelines only for reasons that are objective and verifiable. See MCL 769.34(3); *People v Babcock*, 469 Mich 247, 257-258, 272; 666 NW2d 231 (2003).

Defendant has already served the minimum sentences he challenges and has earned parole. Because we cannot fashion a remedy, we dismiss this appeal as moot. See *People v Rutherford*, 208 Mich App 198, 204; 526 NW2d 620 (1994).

We likewise decline to consider defendant's artful argument that, because he could conceivably have been sentenced to a determinate term of incarceration in jail, see MCL 769.34(4)(a), he may demand, pursuant to *Blakely v Washington*, 542 US 296; 124 S Ct 2531; 159 L Ed 2d 403 (2004), that all facts increasing his punishment be found at trial beyond a reasonable doubt. Our Supreme Court has determined that *Blakely, supra*, does not apply to our

system whereby minimum sentencing ranges are determined within an indeterminate framework.  
*People v Claypool*, 470 Mich 715, 730-731 n 14; 684 NW2d 278 (2004).

Dismissed as moot.

/s/ Hilda R. Gage

/s/ Joel P. Hoekstra

/s/ Christopher M. Murray